



**CALIFORNIA
HIGH-SPEED RAIL
AUTHORITY**

TO: Chairman Umberg and Committee Members

FROM: Thomas C. Fellenz: Chief Counsel

DATE: January 12, 2012

RE: Agenda Item # 3 - Presentation on the request by the Fresno Regional Workforce Investment Board to have preference for focused hiring from long-term, high unemployment regions

Discussion

The California High Speed Rail Authority (CHSRA) received a draft request from the Executive Director for the Fresno Regional Workforce Investment Board (FRWIB) on September 08, 2011 proposing a ‘targeted unemployed worker’ hiring criteria and ‘first source’ transparency requirement for inclusion in the CHSRA Request for Proposal (RFP) design/build projects. (See attached letter).

‘Targeted unemployed workers’ are defined as workers who: (1) unemployed, and (2) reside in Targeted Employment Areas designated by the California Employment Development Department and defined by the CFR as ‘an area which, at the time of investment, is a rural area or an area which has experienced unemployment of at least 150 percent of the national average rate.’ 8 CFR section 204.6.

“First Source” transparency would require that construction and professional service contractors notify CHSRA and “authorized referral entities” of job openings. “Authorized referral entities” include workforce investment boards, community colleges, Migrant Seasonal Farm Worker grantees, Housing Authorities, County Welfare offices, community action agencies, and any other entities authorized by CHSRA within the six-county first phase construction area.

The USDOT’s Common Grant Rule (49 CFR Section 18.36) requires “full and open competition” for contracts funded by grants administered by the USDOT. CHSRA’s ARRA grant agreement states that the grant is subject to the Common Grant Rule. Grantees and sub-grantees are required to conduct procurements in a manner that prohibits the use of in-State or local geographical preferences. As a result of this prohibition, the Authority’s funding would be jeopardized if it adopted local preferences for any of its federally funded contracts administered by Federal Railroad Administration.

CHSRA requested FRA’s position on FRWIB’s proposal and is currently in discussion with FRA.

Recommendations

That the Board direct staff to consider FRWIB ‘targeted unemployed worker’ hiring criteria and ‘first source’ transparency requirement proposal after completing discussions with FRA and staff take appropriate action that would not jeopardize the CHSRA receipt of federal funds.

Attachment

Fresno Works Consortium September 8, 2011 draft Memorandum.